

AMENDED IN ASSEMBLY APRIL 6, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1946**

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**Introduced by Assembly Member Fletcher**

February 17, 2010

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~~An act to amend Section 1367.36 of the Health and Safety Code, relating to health care coverage. An act to amend Section 13823.9 of the Penal Code, relating to crime victims.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1946, as amended, Fletcher. ~~Health care service plans: immunizations.~~ *Victims of sexual assault: child molestation.*

*Under existing law, each county with a population of more than 100,000 is required to arrange to have professional personnel trained in the examination of victims of sexual assault, including child molestation, to be present or on call either in the county hospital or a general acute care hospital.*

*This bill would revise these provisions to require that each county with a population of more than 50,000 would be required to arrange to have these professional personnel in either the county hospital or a general acute care hospital.*

*By requiring additional counties to arrange for this service, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,*

*reimbursement for those costs shall be made pursuant to these statutory provisions.*

~~Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of that act a crime. Existing law requires every health care service plan that covers hospital, medical, or surgical expenses on a group basis to provide certain preventive health care benefits for children, including immunizations. Existing law specifies the reimbursement rate with respect to immunizations that are not part of the current contract between a health care service plan and a physician or physician group.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. Section 13823.9 of the Penal Code is amended*
- 2     *to read:*
- 3     13823.9. (a) Every public or private general acute care hospital
- 4     that examines a victim of sexual assault or attempted sexual assault,
- 5     including child molestation, shall comply with the standards
- 6     specified in Section 13823.11 and the protocol and guidelines
- 7     adopted pursuant to Section 13823.5.
- 8     (b) Each county with a population of more than ~~400,000~~ 50,000
- 9     shall arrange that professional personnel trained in the examination
- 10    of victims of sexual assault, including child molestation, shall be
- 11    present or on call either in the county hospital which provides
- 12    emergency medical services or in any general acute care hospital
- 13    which has contracted with the county to provide emergency
- 14    medical services. In counties with a population of 1,000,000 or
- 15    more, the presence of these professional personnel shall be arranged
- 16    in at least one general acute care hospital for each 1,000,000
- 17    persons in the county.
- 18    (c) Each county shall designate at least one general acute care
- 19    hospital to perform examinations on victims of sexual assault,
- 20    including child molestation.

(d) (1) The protocol published by the agency or agencies designated by the Director of Finance pursuant to Section 13820 shall be used as a guide for the procedures to be used by every public or private general acute care hospital in the state for the examination and treatment of victims of sexual assault and attempted sexual assault, including child molestation, and the collection and preservation of evidence therefrom.

(2) The informational guide developed by the agency or agencies designated by the Director of Finance pursuant to Section 13820 shall be consulted where indicated in the protocol, as well as to gain knowledge about all aspects of examination and treatment of victims of sexual assault and child molestation.

*SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.*

~~SECTION 1. Section 1367.36 of the Health and Safety Code is amended to read:~~

~~1367.36. (a) A risk-based contract between a health care service plan and a physician or physician group that is issued, amended, delivered, or renewed in this state on or after January 1, 2001, shall not include a provision that requires a physician or a physician group to assume financial risk for the acquisition costs of required immunizations for children as a condition of accepting the risk-based contract. A physician or physician group shall not be required to assume financial risk for immunizations that are not part of the current contract.~~

~~(b) Beginning January 1, 2001, with respect to immunizations for children that are not part of the current contract between a health care service plan and a physician or physician group, the health care service plan shall reimburse a physician or physician group at the lowest of the following, until the contract is renegotiated: (1) the physician's actual acquisition cost, (2) the "average wholesale price" as published in the Drug Topics Red Book, or (3) the lowest acquisition cost through sources made available to the physician by the health care service plan. Reimbursements shall be made within 45 days of receipt by the plan of documents from the physician demonstrating that the immunizations were performed, consistent with Section 1371 or~~

1 through an alternative funding mechanism mutually agreed to by  
2 the health care service plan and the physician or physician group.  
3 The alternative funding mechanism shall be based on  
4 reimbursements consistent with this subdivision.

5 (e) Physicians and physician groups may assume financial risk  
6 for providing required immunizations if the immunizations have  
7 experiential data that has been negotiated and agreed upon by the  
8 health care service plan and the physician risk-bearing organization.  
9 However, a health care service plan shall not require a physician  
10 risk-bearing organization to accept financial risk or impose  
11 additional risk on a physician risk-bearing organization in violation  
12 of subdivision (a).

13 (d) A health care service plan shall not include the acquisition  
14 costs associated with required immunizations for children in the  
15 capitation rate of a physician who is individually capitated.